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Attorneys for Defendant  
MARTHA KONGSGAARD, individually  
and as Trustee of The Martha Kongsgaard  
GST Exempt Trust U/T/A dated October 21, 1993

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

FRANCIS WANG, individually and as Trustee  
of WFT-TNG, a California Trust,

Plaintiff,

v.

MARTHA KONGSGAARD, individually and  
as Trustee of The Martha Kongsgaard GST  
Exempt Trust U/T/A dated October 21, 1993

Defendant.

Case No. 3:19-cv-00907-AGT

**DECLARATION OF MELISSA M.  
PALOZOLA IN SUPPORT OF MARTHA  
KONGSGAARD'S OPPOSITION TO  
PLAINTIFF'S MOTION FOR LEAVE TO  
AMEND AND SUPPLEMENT  
COMPLAINT AND TO TERMINATE STAY  
OF PROCEEDINGS**

Date: November 6, 2020  
Time: 10:00 a.m.  
Courtroom A  
Judge: Hon. Alex Tse

1  
2 I, Melissa M. Palozola, declare:

3 1. I am an attorney at the law firm of Clark Hill LLP, attorneys of record for  
4 Plaintiff Martha Kongsgaard Individually and as Trustee Of The Martha Kongsgaard GST  
5 Exempt Trust U/T/A Dated October 21, 1993, (“Kongsgaard”) in this action as well as Napa  
6 County Superior Court Case No. 19CV000286, *Martha Kongsgaard v. Francis Wang, et al.*

7 2. I am also attorney of record for Peter Brian Peletta in Napa County Superior  
8 Court Case No. 19CV000342, *Francis Wang, et al. v. Peter Peletta*.

9 3. The matters set forth herein are based upon my personal knowledge. If called  
10 upon to testify as to the matters set forth herein, I shall do so truthfully and to the best of my  
11 ability.

12 4. Trial in the Napa County Court Napa County Superior Court Case No.  
13 19CV000342, *Francis Wang, et al. v. Peter Peletta* was originally set for April 27, 2020.  
14 Plaintiff Francis Wang requested that the trial date be continued. Trial in that case is now  
15 currently set for November 12, 2020, before Judge Victoria Wood.

16 5. Trial in the Napa County Superior Court Case No. 19CV000286, *Martha*  
17 *Kongsgaard v. Francis Wang, et al.* is set for March 18, 2021, before Judge Victoria Wood.  
18 Written discovery between the parties and production of records from third-party subpoenas are  
19 nearing conclusion. Party depositions are proceeding and set to conclude in October.

20 6. On October 8, 2020, my office wrote Plaintiff’s counsel, informed counsel of the  
21 deficiencies with the Motion and proposed allowing counsel leave to amend Plaintiff’s complaint  
22 in this case provided the action would remain stayed pending the state court proceeding. I also  
23 offered to refrain from seeking sanctions under Rule 11 in the event the Plaintiff agreed to stay  
24 the federal court action pending resolution of the encroachment and contract claims in state  
25 court. As set forth in my letter, counsel intentionally truncated the email correspondence between  
26 the parties. I requested a response by noon on October 9, 2020, given the impending opposition  
27 deadline. Plaintiff’s counsel did not respond as requested. A true and correct copy of that  
28

1 correspondence is attached hereto as **Exhibit 1**.

2 7. Then, on October 13, 2020, Plaintiff's counsel informed me that a meet and  
3 confer was required prior to filing a Rule 11 request for sanctions.

4 8. On October 14, 2020, I requested that Plaintiff's delay the hearing date on this  
5 Motion to allow the parties time to meet and confer. As of the time this Opposition has been  
6 filed, no response has been received from Plaintiff's counsel. A true and correct copy of that  
7 correspondence is attached hereto as **Exhibit 2**.

8 9. On December 4, 2019, I served Martha Kongsgaard's document production on  
9 Defendant Francis Wang in the Napa County Superior Court Case No. 19CV000286, *Martha*  
10 *Kongsgaard v. Francis Wang, et al.* That document production includes the documents affixed  
11 in support of Plaintiff's proposed First Amended Complaint. A true and correct copy of that  
12 correspondence is attached hereto as **Exhibit 3**.

13 10. On December 13, 2019, co-counsel served Peter Brian Peletta's production on  
14 Plaintiff Francis Wang, Napa County Court Napa County Superior Court Case No.  
15 19CV000342, *Francis Wang, et al. v. Peter Peletta*. That production contained bates  
16 PELETTA 0395 – 1807, selected pages of which were also affixed in support of the Plaintiff's  
17 proposed First Amended Complaint

18 11. As of this date, Plaintiff Francis Wang has not paid my client Mr. Peter Brain  
19 Peletta the \$1,810 owed to him as a result of Plaintiff's discovery abuses.

20 12. My office defended the depositions of Martha Kongsgaard and Peter Goldman.  
21 No testimony regarding any racial animus towards the Wangs was forthcoming.

22 I declare under the penalty of perjury under the laws of the State of California that the  
23 foregoing is true and correct.

24 Executed on October 14, 2020 in San Francisco, California.

25  
26 /s/ Melissa M. Palozola

MELISSA M. PALOZOLA

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing was filed *via* CM/ECF on October 14, 2020 and as a result has been served on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Lydia M. Brown  
Lydia M. Brown